

APPENDIX A

PUBLIC COMMENT LETTERS

AND

RESPONSES TO COMMENTS

County of Humboldt - Department of Public Works

Response to Comment # 1 - Reclamation has modified the design of the preferred alternative to avoid or minimize the wetlands impacted by the proposed action alternative. The preferred method of wetland mitigation will be to restore degraded wetlands downstream from the dam.

Response to Comment #2 - As populations of endangered suckers have decreased significantly since the dam was constructed, so has their available habitat been significantly reduced. Today, Clear Lake sustains a large and healthy population of endangered suckers. To undertake an action, such as draining the lake to its pre-dam elevation, would significantly impact this important remaining population and threaten the continued existence of endangered suckers.

Response to Comment #3 - The comment has been noted.

Response to Comment #4 - Such a course of action/alternative is not within the authority of the Safety of Dams Act of 1978 (P.L. 95-578, as amended).

Response to Comment #5 - The Proposed Action alternative does change or alter any of the following: operation of Clear Lake Dam; releases of water from Clear Lake; or increase or decrease the storage capacity or elevations of the lake. No change in water quality is anticipated. Reclamation consulted with the U.S. Fish and Wildlife Service on operation of Clear Lake Dam and received a biological opinion stating that operation of the dam jeopardized the continued existence of endangered suckers, but it offered a reasonable and prudent alternative (RPA) for operation of Clear Lake Dam with elements, if implemented, that would remove jeopardy. Reclamation has implemented, or is still implementing, those elements of RPA. Reclamation is reinitiating consultation and expects a new biological opinion on operation of the Klamath Project, including Clear Lake Dam, in early 2000.

Response to Comment #6 - An EIS on the Long-Term Operations Plan for the Klamath Project (hereafter referred to as Klamath Project EIS) is being prepared by Reclamation. The Klamath Project EIS includes long-term operation of Clear Lake Dam. The EIS will address the issues raised in your letter.

Karuk Tribe of California

Response to Comment #7 - Reclamation consulted with the Klamath Tribes during the planning, design and preparation of the revised draft EA, especially regarding cultural resources found in the project area. Reclamation informed the Karuk Tribe of the proposed project at Clear Lake Dam several times over the past two years during meetings held to further the government-to-government relationship between U.S. Department of the Interior (Reclamation) and the Tribes. Reclamation did not send copies of the revised draft EA directly to the Karuk Tribe. This was an oversight. Reclamation will consult with the Karuk Tribe and consider its comments and input regarding this project. Many of the issues the Karuk Tribe mentioned in their comment letter on the revised Draft EA are relevant to the Klamath Project EIS, where Reclamation is full consulting with the Karuk Tribe.

Response to Comment #8 - See response to Comment #9. The discussion regarding “Interrelated and Interdependent Activities” in the Final EA has been revised to address this concern.

Response to Comment #9 - The National Environmental Policy Act (NEPA) at Sec. 102(2)(c) and Council on Environmental Quality (CEQ) regulations for implementing NEPA (40 CFR 1502.3) state that an EIS shall be prepared for every recommendation or report on proposals for legislation and, “...other major Federal actions significantly affecting the quality of the human environment”. The expenditure of \$10,000,000 may be a “...major Federal action...”, but it may not necessarily be an action that significantly affects the quality of the human environment. Both elements must be present under NEPA/CEQ to trigger preparation of an EIS. Specifically for Clear Lake Dam, Reclamation is uncertain as to whether the proposed action meets the element of, “...significantly affecting the quality of the human environment”. It is appropriate to prepare an EA to determine whether significant impacts exist or not. Reclamation will either prepare a Finding of No Significant Impact (FONSI) if the impacts are insignificant, or a Notice of Intent to prepare a draft EIS if they are significant after the EA is completed.

Reclamation considers the benchmark for analysis of impacts to be the environment as it exists today (2000), i.e. with Clear Lake Dam in place, functional and operating (as constrained by Safety of Dams deficiencies) to meet its authorized purposes. The impact analysis is made by comparing the existing environment (2000) to the “future with the project” and the “future without the project”.

Response to Comment #10 - The description of Clear Lake Dam operation as an authorized facility of the Klamath Project has been expanded on page two of the Final EA. Future changes in Klamath Project operations to address current environmental issues are being addressed in the Klamath Project EIS. The relationship of Clear Lake Dam to the operation of Klamath Project in terms of direct, indirect and cumulative effects will be addressed in that EIS.

Response to Comment #11 - The Safety of Dams Act of 1978 (P.L.95-578, as amended) only provides authority to correct known safety deficiencies of Reclamation dams. Increasing the Klamath Project water supply and improving water quality conditions are outside the authority of the Safety of Dams Act, are not part of the purpose and need for the proposed action, and are not within the scope of this action. Other studies and the Klamath Project EIS will address those issues.

Response to Comment #12 - See Response to #11 and such alternatives are not authorized under the Safety of Dams Act. The Klamath Project EIS will address operation of project facilities that affect the Lost River and improving management of those project facilities to enhance project operations, given the environmental issues and constraints that exist and are being addressed in the EIS.

Response to Comment #13 - See Response to #9.

Denver Nelson

Response to Comment #14 - Clear Lake is not recognized as a natural headwater of the Klamath River. During irrigation season, Lost River water is diverted to the Klamath River as a result of Klamath Project operation. During the rest of the year, the Lost River flows into Tule Lake. The proposed action does not change the timing, magnitude or duration of water releases from Clear Lake Dam. Impacts to the Klamath River from operation of the Klamath Project are being analyzed in the Klamath Project EIS.

Response to Comment #15 - Implementing the proposed action (constructing a replacement dam) will not change Klamath River pollution. This issue will be addressed in the Klamath Project EIS.

Response to Comment #16 - Reclamation has reinitiated Section 7 consultation on operation of the Klamath Project with the U. S. Fish and Wildlife Service and National Marine Fisheries Service for the Lost River and shortnose suckers and the southern Oregon/northern California coho salmon. A new biological opinion is expected is late April 2000.

Response to Comment #17 - See response to Comment #6.

Response to Comment #18 - Reclamation assumes this comment refers to the trust responsibility of the United States to Indian tribes and individuals. This is discussed on page 20-21 in the Final EA.

Response to Comment #19 - The project beneficiaries are required to repay to the United States 15 percent of the Safety of Dams project cost. The portion of the original cost to construct Clear Lake Dam that the project beneficiaries were responsible for has been repaid to the United States.

Response to Comment #20 - The California Water Quality Control Board has been consulted. However construction of a replacement dam does not change the water rights of the project.

Response to Comment #21 - See response to #16.

Response to Comment #22 - The impact analysis of the proposed action indicates that there would be no change in operation of Clear Lake Dam; there would be no change in the quality of water released from Clear Lake; no new lands would irrigated; irrigation and water delivery practices would not change and; impacts of this project would temporary, short-term and confined to the immediate area of the proposed action. Reclamation believes there would be no effect on Klamath River fisheries from the proposed action. Effects of Klamath Project operation on the Klamath River fisheries is being evaluated in the Klamath Project EIS.

Northcoast Environmental Center

Response to Comment #23 - The comment has been noted.

Response to Comment #24 - The Safety of Dams Act of 1978 (P.L. 95-578, as amended) directs Reclamation to undertake safety examinations of its dams and to take action to correct the known safety deficiencies that are identified. Reclamation has completed such investigations, submitted recommendations to Congress for correcting safety deficiencies and is proceeding with the appropriate compliance with the procedural provisions of the National Environmental Policy Act prior to making a decision as to whether to proceed with the proposed action or not.

Response to Comment #25 - The comment has been noted.

Response to Comment #26 - The comment has been noted.

Response to Comment #27 - The comment has been noted. However, Reclamation has not included plans for dredging around the nesting islands in the proposed action or as mitigation.

Response to Comment #28 - See response to Comment #18.

Response to Comment #29 - See response to Comment #19.

Response to Comment #30 - The State of California Regional Water Quality Control Board has been consulted.

Response to Comment #31 - The EPA has been added to the distribution list of the Final EA.

Response to Comment #32 - The comment has been noted. However, the Final EA does not address the Klamath River TMDL, which is still under development, and the effects of the proposed action alternative would likely be minimal because no change in operation of Clear Lake Dam is proposed.

Response to Comment #33 - The Northcoast Environmental Center has been added to the distribution list for the Final EA.

Klamath Forest Alliance

Response to Comment #34 - Clear Lake will not be lowered to accommodate the proposed action. Lake elevations expected during construction (proposed to occur from November 2000 through mid-to-late 2001) would not result in land bridging any islands.

Response to Comment #35 - The comment has been noted and such activities will be completed prior to construction of the proposed action alternative.

Response to Comment #36 - The suggested evaluation/analyses are outside the scope, purpose/need and authority of the Safety of Dams Act, under which this project has been proposed.

Response to Comment #37 - The language of No. 4 has been revised to clarify what discharge of water a NPDES permit would be required for.

Response to Comment #38 - The crest (or top) of the existing dam is elevation 4552.0. Water in Clear Lake is not stored to the dam crest elevation, it could be stored up to the crest of the spillway, which is at elevation 4543.0. The crest of the RCC structure would be elevation 4543.0, with a four-foot high parapet wall at final elevation 4547.0. The spillway crest would remain unchanged (at elevation 4543.0). Clear Lake is generally kept at elevation 4537.4, or lower. The elevation of Clear Lake when up to 450,000 acre-feet is temporarily stored for flood control is about 4543.0.

Response to Comment #39 - The biological opinion expected in early 2000 will include the future operation of the modified Clear Lake Dam.

Response to Comment #40 - The modified dam will be operated the same as present dam. The only anticipated changes in its operation would occur as a result of the new biological opinion on operation of the Klamath Project expected in early 2000.

Response to Comment #41 - The proposed action alternative would result in Reclamation being able to store water in Clear Lake above elevation 4537.4 from October 1 to March 1. Storage is presently restricted to 4537.4 because of Safety of Dams deficiencies. Storage above 4537.4 would provide increased probability that more water could be carried over from year-to-year. Clear Lake would likely drop less in elevation during dry years. The likelihood of extremely low lake levels that could adversely affect the biological resources of Clear Lake and Lost River would likely be lessened in the long-term.

Response to Comment #42 - Reclamation has a contractual obligation to continue water deliveries from Clear Lake for agricultural irrigation. Such deliveries are dependent upon operation of Clear Lake Dam. The operation of Clear Lake Dam, as part of the Klamath Project, is being addressed in the Klamath Project EIS.

Response to Comment #43 - The proposed action alternative (constructing an RCC embankment structure) would not impact nesting white pelicans or other waterbirds because no drawdown of Clear Lake would be required. No mitigation for impacts on nesting waterbirds has been proposed because no impacts are predicted to result from the SOD project. Future

operation of Clear Lake would be subject to natural hydrological conditions and is being addressed in the Klamath Project EIS.

Response to Comment #44 - The comment has been noted.

Donald Ranjus

Response to Comment #45 - The comment has been noted. However, Reclamation has no authority to construct a new dam and such an action is outside the scope of this EA.

U.S. Forest Service

Response to Comment #46 - The EA has been revised to state that the road to Clear Lake Dam would be maintained and that no new construction would take place. This is consistent with the original understanding between the U.S. Forest Service and Reclamation.

U.S. Fish and Wildlife Service

Response to Comment #47 - The suggested revision has been made in the Final EA.

Response to Comment #48 - The description of environmental impacts on page 18-19 of the Final EA has been revised to incorporate this information. Reclamation disagrees that land bridging of islands at water elevations under the proposed action would occur. Under the proposed action, no draw down or lowering of Clear Lake would be needed. Lake elevations expected during construction (proposed to occur from November 2000 through mid-to-late 2001) would not result in land bridging any islands. However, this is an issue related to long-term operation of Clear Lake Dam and will be addressed in the Klamath Project EIS.

Response to Comment #49 - Reference to these beneficial effects has been added to the EA.

Yurok Tribe

Response to Comment #50 - In November 1998 and July 1999, Reclamation implemented short-term, temporary measures on operation of the dam to immediately reduce the risk of dam failure. The reference in the EA to removal of restrictions and monitoring requirements means operation would continue as before those restriction were in place. The analysis of impacts in the EA was made using the operation of the dam before the temporary restrictions were in place.

Response to Comment #51 - The “contribution” of the Lost River to the Klamath River would be unchanged.

Response to Comment #52 - The questions posed by the Yurok Tribe are outside the scope of this EA. Reclamation expects no changes in the operation of Clear Lake Dam as a result of the Safety of Dams project as described in the Proposed Action Alternative. Present and future operation of Clear Lake Dam as a feature of the Klamath Project are being evaluated and will be described in the Klamath Project EIS.

Response to Comment #53 - See response to Comment #11. The studies referred to are outside the scope of this EA.